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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 NATHAN FOUNTAINE,

9 Plaintiff,

10 v.

11 MICHAEL J. ASTRUE, Commissioner of  
12 Social Security Administration,

13 Defendant.

CASE NO. C10-5953BHS

ORDER GRANTING  
PLAINTIFF'S MOTION FOR  
ATTORNEY'S FEES

14 This matter comes before the Court on Plaintiff Nathan Fountaine's ("Fountaine")  
15 motion for attorney's fees (Dkt. 29). The Court has reviewed the briefs filed in support of  
16 and in opposition to the motion and the remainder of the file and hereby grants the motion  
17 for the reasons stated herein.

18 **I. PROCEDURAL HISTORY**

19 On February 8, 2011, Fountaine filed a complaint against Defendant Michael J.  
20 Astrue, Commissioner of Social Security Administration, contesting the denial of  
21 Fountaine's claim for benefits. Dkt. 5. On September 9, 2011, the parties submitted a  
22 stipulated motion for remand. Dkt. 25. On September 30, 2011, the Court entered  
23 judgment for Fountaine and remanded the matter for further consideration. Dkt. 28.

24 On December 29, 2011, Fountaine filed a motion for attorney's fees pursuant to  
25 the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. Dkt. 29. On January 9,  
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1 2012, the Government responded. Dkt. 34. On January 17, 2012, Fountaine replied.  
2 Dkt. 35.

## 3 **II. DISCUSSION**

4 A court may order an EAJA award for attorney hours that were reasonably  
5 expended on the litigation unless the position of the Government was substantially  
6 justified or special circumstances exist that make an award unjust. 28 U.S.C. §  
7 2412(d)(2)(A).

8 In this case, the Government contends that the number of hours alleged to have  
9 been expended on the matter is unreasonable based on the issues before the Court. Dkt.  
10 34. The Government, however, fails to provide an amount that it considers reasonable.  
11 Moreover, upon review of the file, the Court finds that the number of hours expended on  
12 this matter appear to be reasonable and appropriate. The Court does not agree with the  
13 Government that 13.4 of the hours billed constitute block billing. The description of  
14 services appears to be devoted to a single task. Therefore, the Court grants the award as  
15 requested.  
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17 The Government requests that, if the Court awards fees, the fees should be  
18 awarded to Fountaine and not to Fountaine's attorney. Dkt. 34 at 5. The Court agrees.  
19 However, the Court routinely orders that the check for fees be made payable to the  
20 attorney and sent to the attorney upon submission of a proper fee agreement.

## 21 **III. ORDER**

22 Therefore, it is hereby **ORDERED** that Fountaine's motion for attorney's fees  
23 (Dkt. 29) is **GRANTED**. EAJA fees of \$5,127.75 shall be awarded to Fountaine  
24 pursuant to *Astrue v. Ratliff*, 130 S. Ct. 2521 (2010). If it is determined that  
25 Fountaine's EAJA fees are not subject to any offset allowed under the Department of the  
26 Treasury's Offset Program, then the check for EAJA fees shall be made payable to  
27  
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1 D. James Tree, based upon Fountaine's assignment of these amounts to his attorney. (*See*  
2 Dkt. 29-2). Any check for EAJA fees shall be mailed to Mr. Tree.

3 DATED this 25th day of January, 2012.

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6 BENJAMIN H. SETTLE  
7 United States District Judge  
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